

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NICHOLE DANIELS-FEASEL, *et al.*,

Plaintiffs,

v.

FOREST PHARMACEUTICALS INC., *et al.*

Defendants.

Case No.1:17-cv-4188 (LTS) (JLC)

**PLAINTIFFS' RESPONSE TO FOREST'S NOTICE OF SUPPLEMENTAL
AUTHORITY IN SUPPORT OF FOREST'S OMNIBUS MOTION TO EXCLUDE
PLAINTIFFS' EXPERT TESTIMONY ON GENERAL CAUSATION**

The Notice of Supplemental Authority recently filed by Forest (Dkt. 101) directs the Court's attention to the Second Circuit's opinion in *In re Mirena IUS Levonorgestrel-Related Prods. Liab. Litig.* (No. 19-2155 (Dec. 8, 2020)). This opinion affirmed *In re Mirena IUS Levonorgestrel-Related Prods. Liab. Litig.*, 341 F. Supp. 3d 213 (S.D.N.Y. 2018) ("*Mirena IP*"). Plaintiffs addressed *Mirena II*, where published scientific literature supporting the proffered opinions was scant, in their Opposition to Defendants' Motion to Exclude Plaintiffs' Expert Testimony on General Causation. Dkt. 85 at 40-41. As the Second Circuit recognized in its affirmance of *Mirena II*, "the Daubert inquiry is fluid and will necessarily vary from case to case." Dkt. 101-1 at *14; *see also* Dkt. 85 at 4 n.1, 55 n.18 (citing litany of federal district court cases that admitted the expert opinions of Dr. Moye and Dr. Plunkett). Plaintiffs are confident that a careful consideration of the vast published, peer-reviewed scientific evidence relied on by Drs. Moye and Plunkett in this case the Court will find neither the holding in *Mirena II* nor the Second Circuit's recent affirmance support the exclusion of the opinions of these same experts in this case. *See* Doc 85, pp. 16-40; Doc 87-1 (Appendix of Medical Literature).

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that on this 11th day of December 2020, I caused a copy of the foregoing *Plaintiffs' Response to Forest's Notice of Supplemental Authority in Support of Forest's Omnibus Motion to Exclude Plaintiffs' Expert Testimony on General Causation* to be served upon the Court and the following via ECF service:

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